

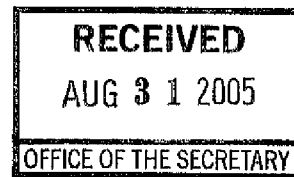


4-507

VOICE OF THE INDEPENDENT CONTRACTOR BROKER-DEALER

August 25, 2005

Jonathan G. Katz
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549



Re: Request for Extension of Compliance Dates for Certain Aspects of Rule 202(a)(11)-1 (S7-25-99)

Dear Mr. Katz:

The Financial Services Institute¹ (Institute) respectfully requests that the Commission extend compliance dates for certain sections of Rule 202(a)(11)-1 (the Rule) from October 24, 2005, to April 1, 2006. FSI requests this extension to allow our member firms adequate time to implement changes in their systems and procedures to ensure compliance with paragraphs (b)(2) and (b)(3), the financial planning and discretionary brokerage sections of the Rule.

Institute members have a number of similar business characteristics. They generally clear their securities business on a fully disclosed basis; primarily engage in the sale of Covered Securities by "check and application"; take a comprehensive approach to their clients' financial goals and objectives; offer primarily packaged products such as mutual funds and fixed and variable insurance products; and provide investment advisory services through either affiliated registered investment adviser firms or such firms owned by their registered representatives. Our members' registered representatives are independent contractors, rather than employees of our member broker-dealers. These registered representatives are typically located in communities where they know their clients personally and provide investment advice to their clients on a face-to-face basis. Our members generally do not concentrate their retail business on the sale of individual stocks and bonds; engage in active trading strategies; make markets; carry inventories; engage in investment banking services; or prepare and issue research to retail customers. We believe our members have a strong incentive to keep their clients' interests paramount because they take a comprehensive, holistic approach to their clients' financial needs and objectives.

Paragraph (b)(2) of the Rule defines when a broker-dealer provides advice that is not solely incidental to the conduct of its business as a broker or dealer because it is "in connection with providing financial planning services." An extension of paragraph (b)(2) of the Rule is needed so FSI member firms can determine which activities are subject to the Investment Advisers Act and then develop and distribute appropriate disclosures. Not only will disclosure documents need to be revised and redistributed, but substantial computer programming changes will be necessary to ensure compliance with the Rule. Most FSI members will find it extremely difficult, if not impossible, to meet the October 24, 2005, deadline for compliance.

¹ The Financial Services Institute, Voice of the Independent Contractor Broker-Dealer, was formed on January 1, 2004. Our members are broker-dealers, often dually registered as federal investment advisers that serve registered representatives who are independent contractors. The Institute has over 100 member firms, with more than 120,000 registered representatives and over \$8.3 billion in Total Revenues.

Jonathan G. Katz

August 25, 2005

Page 2 of 2

Further, when the Institute submitted comments on the Rule in September 2004, we did not anticipate that the Commission would attempt to further define activities that require investment adviser registration. Since the final Rule went beyond what the industry expected, we believe it would be prudent to allow more time to ensure compliance.

Paragraph (b)(3) of the Rule requires broker-dealers to treat accounts as investment advisory if the representative exercises investment discretion on more than a "temporary and limited" basis. FSI members need additional time for the extensive review of individual accounts in order to assess the status of each account under the Rule. After the assessment, FSI members will need to contact clients who hold "discretionary" accounts under the Rule and allow them ample time to decide, in consultation with their financial advisor, which type of account they wish to maintain. Firms will then need time to implement clients' wishes and to ensure compliance with all aspects of the Investment Advisers Act. We believe a compliance date of April 1, 2006 will allow FSI members time to conduct these reviews, consult with clients, and then ensure compliance.

We understand the Staff's reluctance to provide more specific guidance on the Rule in light of the litigation on the Rule pending in the federal courts. We are concerned that the lack of specific guidance will further exacerbate problems with ensuring compliance by October 24, 2005.

Thank you for the Commission's consideration of our request. Please feel free to contact me at 770 980-8487 with any questions or to discuss further any of our comments.

Respectfully submitted,



Dale E. Brown, CAE

Executive Director and CEO

pc: Honorable Christopher Cox, Chairman
Honorable Cynthia A. Glassman, Commissioner
Honorable Paul S. Atkins, Commissioner
Honorable Roel C. Campos, Commissioner
Honorable Annette L. Nazareth, Commissioner
Meyer Eisenberg, Acting Director, Division of Investment Management
Robert E. Plaze, Associate Director, Division of Investment Management
Robert L.D. Colby, Acting Director, Division of Market Regulation